

DEC 02 2005

**NOT FOR PUBLICATION
UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

UNITED STATES OF AMERICA,

Plaintiff–Appellee,

vs.

JEROME MELVIN ELLIOTT,

Defendant–Appellant.

No. 05-50074

D.C. No. CR-98-01938-2

MEMORANDUM*

Appeal from the United States District Court
for the Southern District of California
John S. Rhoades, District Judge, Presiding

Submitted November 15, 2005**
Pasadena, California

Before: WARDLAW and PAEZ, Circuit Judges, and SINGLETON, District
Judge.***

Jerome Melvin Elliott appeals the 17-month, 12-day sentence he received
upon the second revocation of his supervised release. He argues that the sentence

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*** The Honorable James K. Singleton, Senior District Judge for the District of Alaska, sitting by designation.

exceeded the non-binding policy recommendations of the Sentencing Commission and that the sentencing judge failed to provide sufficient reasons for the upward departure. The record reflects that Elliott was warned in the violation report that the judge would consider a 17-month, 12-day sentence in preference to the policy recommendation range of 6 to 12 months. The District Judge's discussion of Elliott's extensive record of violence, his frequent violations of probation, and present supervised release, adequately explained and justified the sentence imposed. See United States v. Lockard, 910 F.2d 542 (9th Cir. 1990). We further conclude that the district court did not abuse its discretion in imposing a sentence outside the applicable range suggested in the policy statements regarding sentencing after revocation of supervised release in Chapter 7 of the United States Sentencing Guidelines. See United States v. George, 184 F.3d 1119, 1120 (9th Cir. 1999).

AFFIRMED.